

AMENDED IN SENATE AUGUST 13, 2008
AMENDED IN SENATE AUGUST 4, 2008
AMENDED IN SENATE JUNE 19, 2008
AMENDED IN SENATE JUNE 4, 2008
AMENDED IN ASSEMBLY JANUARY 24, 2008
AMENDED IN ASSEMBLY JANUARY 16, 2008
AMENDED IN ASSEMBLY JANUARY 7, 2008
AMENDED IN ASSEMBLY MARCH 29, 2007
CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1701

Introduced by Assembly Member Dymally

February 23, 2007

An act to add and repeal Section 14105.28 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1701, as amended, Dymally. Medi-Cal: pilot project: transfer of pediatric patients: subacute care health facilities.

Existing law establishes various public programs to provide health care coverage to eligible children, including the Medi-Cal program administered by the State Department of Health Care Services. Children under 18 years of age are eligible for health care coverage under the Medi-Cal program if they meet certain household income and other requirements.

This bill would require the department, within 120 days of the effective date of the bill, to implement a pilot project of a duration of not less than 3 years to provide enhanced pediatric subacute care for a select group of children with complex ventilator medical needs, who are Medi-Cal beneficiaries, at facilities designed to offer that type of care at a cost significantly less than the cost of comparable care provided at general acute care hospitals, as specified. The bill would require the department to develop standards for determining which children should be selected to participate in the pilot project based upon consideration of specified criteria relating to the child's medical needs and condition and to approve Treatment Authorization Requests submitted by the facility. The bill would authorize the department to contract with a medical provider or specialty health care organization with expertise in treating children with complex ventilator care needs to implement and administer the pilot project. The bill would require the department to conduct an ongoing evaluation of the pilot project, as specified. The bill would ~~provide that its provisions shall only be implemented to the extent that there are sufficient funds available for that purpose, as determined by the department, and if federal financial participation is available~~ *provide for implementation of its provisions only if the department receives federal financial participation, and only to the extent it can demonstrate fiscal neutrality within the overall department budget.* This bill would also allow the department to implement the pilot project, in whole or in part, without taking regulatory action. This bill would repeal its provisions as of January 1, 2013.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares the
- 2 following:
- 3 (1) Financial savings can be realized through the use of pediatric
- 4 subacute services that are provided to children with complex
- 5 ventilator medical needs in licensed nursing facilities as an
- 6 alternative to the provision of more costly services provided in an
- 7 acute care hospital setting.
- 8 (2) The additional developmental benefits that would be
- 9 achieved from the placement of children with complex ventilator
- 10 medical needs in pediatric subacute care settings would serve to

1 strengthen California's compliance with requirements for
2 placements into less restrictive environments.

3 (b) It is the intent of the Legislature, in enacting this act, to allow
4 for the medically appropriate care of a select group of children,
5 who rely on ventilators, in a more cost-effective and
6 developmentally appropriate environment, which would result in
7 cost savings to the state and enhanced care to medically fragile
8 children.

9 SEC. 2. Section 14105.28 is added to the Welfare and
10 Institutions Code, to read:

11 14105.28. (a) The department shall, within 120 days of the
12 date of the effective date of this section, implement a pilot project
13 of a duration of not less than three years to provide enhanced
14 pediatric subacute care for a select group of children with complex
15 ventilator medical needs, who are Medi-Cal beneficiaries, at
16 facilities designed to offer that type of care at a cost significantly
17 less than the cost of comparable care provided at general acute
18 care hospitals. This select group is composed of children who have
19 more pronounced or higher frequency of dynamic illness with
20 complications due to multisymptom involvement, whose medical
21 needs ~~that~~ cannot be managed within the current reimbursement
22 levels provided for pediatric subacute care. The department shall,
23 after consultation with appropriate medical providers, establish a
24 supplemental rate model that would address and pay the costs
25 required to provide this enhanced level of care, that shall include
26 all of the following:

27 (1) In addition to the requirements of subdivisions (f) to (i),
28 inclusive, of Section 51215.8 of Title 22 of the California Code
29 of Regulations regarding developmental services, an additional
30 two hours per patient day of staffing from qualified child
31 development specialists or teachers' ~~aids~~ *aides*.

32 (2) In addition to the requirements of subdivision (k) of Section
33 51215.8 of Title 22 of the California Code of Regulations regarding
34 nursing, an additional one hour of actual unduplicated licensed
35 nursing hours per patient day and an additional two actual certified
36 nurse's aide hours per patient day.

37 (3) In addition to the requirements of subdivision (t) of Section
38 51215.8 of Title 22 of the California Code of Regulations regarding
39 respiratory therapy, an additional 1.5 hours of actual licensed
40 respiratory care practitioner hours per patient day.

1 (4) In addition to the requirements of subdivision (c) of Section
2 51215.9 of Title 22 of the California Code of Regulations regarding
3 physician oversight, the provision of physician visits twice per
4 week shall extend beyond the first 30 days, and shall be maintained
5 throughout the complex ventilator supplemental period.

6 (5) In addition to the requirements of subdivisions (c) to (g),
7 inclusive, of Section 51215.10 of Title 22 of the California Code
8 of Regulations regarding physical, occupational, and speech
9 therapy services, an additional 0.2 hours per patient day of licensed
10 therapist services.

11 (6) Clinical staff participating in the care of children who qualify
12 for the complex ventilator supplement rate shall attend 24
13 documented contact hours of in-service education per year relating
14 to pediatric care and complex services.

15 (b) The department shall develop standards for determining
16 which children should be selected to participate in the pilot project,
17 and shall approve Treatment Authorization Requests (TARs)
18 submitted by the facility based upon consideration of the following
19 criteria:

20 (1) A child's age, weight, stability, and medical diagnosis,
21 including patient supervision needs.

22 (2) An evaluation of the child's need for mechanical ventilation,
23 initiation of medical ventilation, including an ongoing assessment
24 of the child's ventilator requirements, usage, and monitoring needs.

25 (3) Whether the child's condition requires complex respiratory
26 treatments that may include continuous medication, or nebulizer
27 treatments, or both.

28 (4) Consideration of a child's past history of respiratory illnesses
29 and infections.

30 (5) The need for medical staff and support personnel with
31 specialized training to care for a complex ventilator-dependent
32 pediatric patient.

33 (c) A separate TAR shall be required for complex ventilator
34 supplemental services as provided by this section. Authorization
35 requests shall be initiated by the facility.

36 (d) The department may contract with a medical provider or
37 specialty health care organization with expertise in treating children
38 with complex ventilator care needs to implement and administer
39 the pilot project.

1 (e) The department shall conduct an ongoing evaluation of the
2 pilot project to determine the estimated cost savings and
3 effectiveness of the project with regard to ensuring the continuity
4 and quality of medical care provided to patients participating in
5 the project.

6 ~~(f) This section shall only be implemented to the extent that~~
7 ~~there are sufficient funds available for the pilot project, as~~
8 ~~determined by the department, and if federal financial participation~~
9 ~~is available.~~

10 *(f) The department shall implement this section only to the extent*
11 *it can demonstrate fiscal neutrality within the overall department*
12 *budget, and only if the department receives federal financial*
13 *participation from the federal Centers for Medicare and Medicaid*
14 *Services.*

15 (g) Notwithstanding Chapter 3.5 (commencing with Section
16 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
17 the director may implement this section, in whole or in part, by
18 means of provider bulletin or other similar instructions, without
19 taking regulatory action.

20 (h) This section shall remain in effect only until January 1, 2013,
21 and as of that date is repealed, unless a later enacted statute, that
22 is enacted before January 1, 2013, deletes or extends that date.